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Paper 18
Entered: July 22, 2013

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Oracle Corporation
Petitioner

v.

Clouding IP, LLC
Patent Owner

Case IPR2013-00095 (JL)
Patent 5,944,839

Before JAMESON LEE, JONI Y. CHANG, MICHAEL W. KIM, and RAMA G. ELLURU, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

JUDGMENT
Termination of Proceeding
37 C.F.R. § 42.73

On July 19, 2013, the parties filed a joint motion to terminate this *inter partes* review with respect to the petitioner ("Oracle"). (Paper 15.) With the joint motion, the parties filed a copy of their written settlement agreement covering Patent 5,944,839 involved in this *inter partes* review. (Paper 17.) The parties also filed, on July 19, 2013, a joint request to have their settlement agreement treated as

confidential business information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). (Paper 16.)

Under 35 U.S.C. § 317(a), "[a]n inter partes review instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and patent owner, unless the Office has decided the merits of the proceeding before the request for termination is filed." The requirement for terminating review with respect to Oracle is met.

Under 35 U.S.C. § 317(a), "If no petitioner remains in the inter partes review, the Office may terminate the review or proceed to a final written decision under section 318(a)." Oracle is the sole petitioner in this review. The Board has discretion to terminate this review with respect to the patent owner ("Clouding").

Clouding has not yet filed its Patent Owner Response or any Motion to Amend Claims. Oracle represents that it will no longer participate even if the Board does not terminate this review. That means Oracle will not file a reply to any Patent Owner Response or an opposition to any Motion to Amend Claims. Oracle also will not be conducting any cross examination of Clouding's witnesses.

In a telephone conference call conducted on July 11, 2013, counsel for the parties represented that they will move to dismiss related district court litigation between the parties and involving Patent 5,944,839. The Board asked the parties to indicate in their joint motion to terminate proceeding whether there will be codefendants remaining in such related litigation. The joint motion indicates none.

The joint motion identifies other related litigation involving Patent 5,944,839 but not Oracle. The defendants in such other related litigation have not

filed a petition for *inter partes* review of Patent 5,944,839. There is no pending motion by any third party for joinder with this *inter partes* review.

The Board determines that in the circumstances of this case it is appropriate to terminate review both as to petitioner Oracle and patent owner Clouding without rendering a final written decision *See* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72.

It is

ORDERED that the joint motion to terminate IPR2013-00095 is GRANTED, and this *inter partes* review is hereby terminated as to all parties including petitioner Oracle and patent owner Clouding; and

FURTHER ORDERED that the parties's joint request to have their settlement agreement treated as business confidential information under the 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) is also GRANTED.

Case IPR2013-00095
Patent 5,944,839

For PETITIONER

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